UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Debra Ober,

Debtor.

Chapter 7
BKY 16-40961 – KHS

VERIFIED NOTICE OF HEARING AND MOTION OBJECTING TO CLAIMED EXEMPT PROPERTY AND REQUESTING TURNOVER OF PROPERTY

TO: The United States Bankruptcy Court, the United States Trustee, the debtor, the debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002:

1. John R. Stoebner, trustee herein (the **"Trustee"**), moves the Court for the relief requested below, and gives notice of hearing herewith. The petition commencing this Chapter 7 case was filed on April 1, 2016 (the **"Petition Date"**).

MOTION OBJECTING TO EXEMPTION

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1071-1. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1 through 9013-5. This proceeding arises under 11 U.S.C. § 522 and Local Rule 4003-1(a).

3. The Court will hold a hearing on this motion on June 22, 2016 at 9:30 a.m. in Courtroom No. 8 West, 8th Floor, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, or as soon thereafter as counsel can be heard.

4. Any response to this motion must be filed and served not later than June 17, 2016, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

5. The debtor, Debra Ober (the **"Debtor"**), scheduled real property located at 11798 155th Street, Glencoe, MN (the **"Glencoe Property")**, with the valuation of her one-half interest in the amount of $171,142[1],

1 It is unclear whether the Debtor values her one-half interest in the homestead at $171,142 or the entire property at that

and further scheduled a mortgage with Mid Country Bank with balance owing of $67,000 as a secured claim against the Glencoe Property. It is impossible to determine from the Debtor's Schedules whether any of the other secured claims listed by the Debtor are secured by the Glencoe Property. The Trustee has requested additional information from the Debtor to identity any additional liens or secured claims against the Glencoe Property but the Debtor has not provided such information. The Debtor has claimed an exemption of $1.00 in the Glencoe Property pursuant to 11 U.S.C. § 522(d)(1). Upon information and belief, the Debtor owns the Glencoe Property jointly with her husband, Randy Ober who is not a debtor in this case.

5. The Trustee has also requested information from the Debtor regarding the value of the Glencoe Property and also verification of the mortgage balances and the perfection of the liens. To date, the Trustee has received verification that the Mid Country Bank mortgage has been perfected, but not as to the balance owing. The Trustee has also received verification of a US Bank mortgage balance of $105,303.05, but no verification that this mortgage is a perfected claim against the Glencoe Property.

6. The Trustee has identified certain facts that indicate that the Glencoe Property has been substantially undervalued by the Debtor on her bankruptcy Schedules. Upon information and belief, the Glencoe Property was purchased in June 2004 for $315,000. Moreover, real estate website Zillow.com indicates that the Glencoe Property may be worth approximately $326,828. The McLeod county assessor's valued the Glencoe Property at $263,400 in 2016. Moreover, upon information and belief, the Glencoe Property consists of a remodeled and updated 3,177 square foot home with four bedrooms, two bathrooms, and a large deck; together with a 2,016 square foot heated shop with a cement floor; a 2,100 square foot calf barn; and a 480 square foot heated craft shop with a cement floor. If necessary, the Trustee may seek a professional valuation of the real estate.

7. The Trustee believes the Debtor's interest in the Glencoe Property exceeds the maximum exemption available to the Debtor under 11 U.S.C. § 522(d)(1), $23,675.00, and therefore objects to the Debtor's claimed exemption in the Glencoe Property.

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amount. The bankruptcy form requires that a debtor value her interest only, but on the Debtor's Schedules at page 10, the Debtor includes the following language regarding the Glencoe Property: "Value by County, $221,000; needs windows,

MOTION SEEKING TURNOVER OF FINANCIAL DOCUMENTS

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 157 and § 1334 and Bankruptcy Rule 5005. This motion is filed under Local Rule 6072-1, this proceeding arises under 11 U.S.C. § 542(a). The Trustee has been unable to determine the value of the Debtor's interest in the Glencoe Property from the information provided by her. The Trustee needs to determine the true value of the Glencoe Property and also to verify any secured claims, liens or encumbrances against the Glencoe Property because the Debtor's non-exempt equity in the Glencoe Property is property of the Debtor's bankruptcy estate. Accordingly, the Trustee requests an order directing the Debtor to turnover to the Trustee any and all documentation in her possession relating to the value of the Glencoe Property, including without limitation, any appraisals, market analyses, remodeling plans, invoices related to any remodeling of the Glencoe Property, and any other documents in her possession that relate to the issue of the value of the Glencoe Property, together with any and all documents that relate to the amount and perfection of any secured claims, liens or encumbrances against the Glencoe Property.

WHEREFORE, the Trustee requests the entry of the attached proposed order.

LAPP, LIBRA, THOMSON, STOEBNER &
PUSCH, CHARTERED

Dated: June 8, 2016

/e/ Andrew J. Stoebner
Andrew J. Stoebner (#395685)
John R. Stoebner (#0140879)
120 South Sixth Street, Suite 2500
Minneapolis, MN 55402
(612) 338-5815

ATTORNEYS FOR THE TRUSTEE

VERIFICATION

John R. Stoebner, being duly sworn, says that he is the Chapter 7 Trustee in this action, that he has read this Verified Notice and Objection to Claimed Exempt Property and Request for Turnover and that it is true of his own knowledge, to the best of his information.

/e/ John R. Stoebner
John R. Stoebner

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doors, roof, et. al. (sic) have estimates of $49,858 for bulk of work."

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UNSWORN CERTIFICATE OF SERVICE

I, Nancy I. Spooner, declare under penalty of perjury that on June 8, 2016, I mailed copies of the attached **Verified Notice of Hearing and Motion Objecting to Claimed Exempt Property and Requesting Turnover and Order Sustaining Objection to Claim of Exemption and Request for Turnover** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Debra Ober
9726 State Highway 22
Glencoe, MN 55336

VIA ELECTRONIC FILING ONLY

- Robert J. Wendling, bobwendling@visi.com
- US Trustee ustpregion12.mn.ecf@usdoj.gov

Executed on: June 8, 2016

/e/ Nancy I. Spooner
Nancy I. Spooner, Paralegal
Lapp, Libra, Thomson, Stoebner & Pusch, Chartered
120 South Sixth Street, Suite 2500
Minneapolis, MN 55402
612/338-5815

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ORDER

This matter is before the Court on the Trustee's Motion Objecting to Claimed Exempt Property and Requesting Turnover of Property.

Based on the motions and the file,

IT IS ORDERED:

1. The debtor's claimed exemption in real property located at 11798 155th Street, Glencoe, MN (the **"Glencoe Property"**) is limited to $23,675 pursuant to 11 U.S.C. § 522(d)(1), and, to the extent the value of the debtor's interest in the Glencoe Property exceeds that amount, that claimed exemption is disallowed.

2. Within 10 days of the date of this order, the debtor shall turnover to the trustee any and all documents or information in her possession relating to the value of the Glencoe Property, including without limitation, any appraisals, market analyses, remodeling plans, invoices related to any remodeling of the Glencoe Property, and any other documents or information in her possession that might relate to the value of the Glencoe Property.

3. Within 10 days of the date of this order, the debtor shall turnover to the trustee any and all documents or information that relate to any secured claims, liens or encumbrances against the Glencoe Property, including but not limited to, all documents related to the value and perfection of such claims, liens, or encumbrances against the Glencoe Property.

Dated:

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Kathleen H. Sanberg
Chief United States Bankruptcy Judge